

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 2.106 of the Commission's	)	ET Docket No. 95-18
Rules to Allocate Spectrum at 2 GHz for Use By	)	
the Mobile-Satellite Service	)	

To: The Commission

**COMMENTS OF COX BROADCASTING, INC.,  
COSMOS BROADCASTING CORPORATION, AND MEDIA GENERAL, INC.**

Cox Broadcasting, Inc., Cosmos Broadcasting Corporation, and Media General, Inc. (collectively, the "Joint Broadcasters"), by their attorneys, hereby submit these comments pursuant to the Commission's *Public Notice* requesting comment on the National Association of Broadcasters ("NAB") and the Association for Maximum Service Television, Inc.'s ("MSTV") Motion for Stay of Mandatory Negotiation Period.<sup>1</sup> The Joint Broadcasters support NAB and MSTV's request that the Commission stay the mandatory negotiation period between licensees in the Mobile Satellite Service ("MSS") and incumbent licensees in the Broadcast Auxiliary Service ("BAS") pending the Commission's resolution of issues concerning the reallocation of the 2 GHz BAS spectrum.

The Commission has initiated two proceedings whose outcome will impact BAS relocation. First, the Commission is considering reallocating the 2020-2025 MHz frequency band to advanced wireless services (including third generation, or "3G," wireless services) rather

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<sup>1</sup> Comments Requested on Motion for Stay of Mandatory Negotiation Period, ET Docket No. 95-18, *Public Notice*, DA 01-2610 (rel. Nov. 8, 2001).

than to MSS as contemplated under the current plan.<sup>2</sup> Second, the Commission has asked whether MSS licensees should be permitted to offer terrestrial wireless services in addition to satellite-based services.<sup>3</sup>

By considering a re-allocation to 3G services and terrestrial flexibility for MSS entrants, the Commission has created additional uncertainty in the mandatory negotiations between MSS entrants and BAS incumbents for the complex relocation of BAS operations to a smaller, rechannelized band.<sup>4</sup> In addition, the *Wireless Reallocation MO&O/FNPRM* mostly failed to account for the impact that the potential 3G reallocation would have on the BAS relocation plan and inquired only generally about possible modifications. The factual predicate for the current BAS relocation plan is incompatible with a further reallocation of the 2020-2025 MHz frequency band to 3G services. The triggering events for BAS relocations are based upon MSS spectrum demand and actual entry, and it is reasonable to expect that 3G licensees would be prepared to offer service prior to MSS entrants and use spectrum now scheduled to be cleared last. Moreover, a 3G reallocation raises added uncertainties about new entrants' compensation responsibilities to BAS incumbents.

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<sup>2</sup> Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New 3G Services, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, ET Docket No. 00-258, FCC 01-224, at ¶¶ 24-27 (rel. Aug. 20, 2001) ("*Wireless Reallocation MO&O/FNPRM*").

<sup>3</sup> Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz band, the L-Band, and the 1.6/2.4 GHz Band, *Notice of Proposed Rulemaking*, IB Docket No. 01-185, FCC 01-225 (rel. Aug. 17, 2001).

<sup>4</sup> See 47 C.F.R. § 74.690; Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service, *Second Report and Order and Second Memorandum Opinion and Order*, ET Docket No. 95-18, 15 FCC Rcd 12315, 12326-27 (2000) ("*2 GHz Relocation 2d R&O/2d MO&O*").

Accordingly, the Joint Broadcasters agree with NAB and MSTV that the Commission should stay negotiations with MSS entrants until such time as it can harmonize the current BAS plan with the items under consideration.<sup>5</sup> The Joint Broadcasters note that the BAS relocation plan, as set forth in Section 74.690 of the Commission's rules,<sup>6</sup> balanced a number of difficult issues and was adopted only last year after over five years of notice and comment deliberations.<sup>7</sup> Because the potential 3G reallocation is inconsistent with the factual predicate of the current BAS relocation plan, the Joint Broadcasters believe that the Commission should take similar care and delay the mandatory negotiations to ensure effective BAS relocation and minimal BAS disruption.

Because of the uncertainty caused by the potential 3G reallocation and the pending terrestrial wireless MSS proceeding, the Commission should stay the complex mandatory

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<sup>5</sup> Joint Comments of the Association for Maximum Television Service, Inc. ("MSTV") and the National Association of Broadcasters ("NAB"), ET Docket No. 00-258, *et al.*, at 11 (filed Oct. 22, 2001).

<sup>6</sup> 47 C.F.R. § 74.690.

<sup>7</sup> See Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, *Notice of Proposed Rule Making*, 10 FCC Rcd 3230 (1995); *First Report and Order and Further Notice of Proposed Rule Making*, 12 FCC Rcd 7388 (1997); *2 GHz Relocation 2d R&O/ 2d MO&O*, 15 FCC Rcd 12315 (2000).

negotiations between BAS incumbents and MSS entrants until it reaches decisions in the  
aforementioned proceedings and revises the current BAS plan accordingly.

Respectfully submitted,

**COX BROADCASTING, INC.  
COSMOS BROADCASTING CORPORATION  
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## CERTIFICATE OF SERVICE

I, Ruby Brown, am a legal secretary at Dow, Lohnes & Albertson, PLLC. I hereby certify that on this 30th day of November 2001, the foregoing "COMMENTS" were served via U.S. Mail to the following:

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